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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/074,597	02/11/2002	Shawn Nelson	15605.I	4845
22913	7590	12/28/2004		
WORKMAN NYDEGGER (F/K/A WORKMAN NYDEGGER & SEELEY) 60 EAST SOUTH TEMPLE 1000 EAGLE GATE TOWER SALT LAKE CITY, UT 84111			EXAMINER VU, STEPHEN A	
			ART UNIT 3636	PAPER NUMBER

DATE MAILED: 12/28/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No.	Applicant(s)
	10/074,597	NELSON, SHAWN
	Examiner Stephen A Vu	Art Unit 3636

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

1) Responsive to communication(s) filed on 9/21/04.  
 2a) This action is FINAL.  
 2b) This action is non-final.  
 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

4) Claim(s) 1,2,4-16 and 34-51 is/are pending in the application.  
 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.  
 5) Claim(s) \_\_\_\_\_ is/are allowed.  
 6) Claim(s) 1,2,4-16 and 34-51 is/are rejected.  
 7) Claim(s) \_\_\_\_\_ is/are objected to.  
 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

9) The specification is objected to by the Examiner.  
 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
 a) All    b) Some \* c) None of:  
 1. Certified copies of the priority documents have been received.  
 2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

1) Notice of References Cited (PTO-892)  
 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)  
 3) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
 Paper No(s)/Mail Date 9/21/04

4) Interview Summary (PTO-413)  
 Paper No(s)/Mail Date. \_\_\_\_\_.  
 5) Notice of Informal Patent Application (PTO-152)  
 6) Other: \_\_\_\_\_

## DETAILED ACTION

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

Claims 1-2,4-13,15-16,34, and 41 are rejected under 35 U.S.C. 103(a) as being unpatentable over Keltner (#3,968,620).

Keltner discloses a packaged furniture assembly comprising a chair (1) (see col. 2, lines 64-68) comprising an air permeable bladder (cloth fabric cover) and a filler (light density flexible polyurethane foam) disposed within the air permeable bladder.

The chair is selectively compressed when air is removed from within the air permeable bladder (see col. 2, lines 7-17). A vacuum chamber (plastic bag 3) is configured to house the chair, wherein the vacuum chamber has a partial opening (see col. 2, lines 29-32) to allow air inside the vacuum chamber while the chair is within the vacuum

chamber, and a storage container (2) is configured to house the chair and vacuum chamber when the chair is selectively compressed (see col. 2, lines 17-20). Although, Keltner does not show that the storage container to comprise an air permeable material; it appears that Keltner teaches the chair (1) in the vacuum chamber (3) can be placed in a container that is air permeable after compression (see col. 2, lines 61-63). Therefore, it would have been obvious to one of ordinary skilled in the art at the time the invention was made to provide Keltner's assembly with an air permeable container including a container that is made of air permeable material to contain the chair (1) for as long as the container prevents the chair from popping out unintentionally.

Claims 2 and 4 have been discussed above.

With regards to claims 5-11, the chair (1) is compressed to less than 20% of its original volume (see col. 1, lines 56-64) which meets the limitations in claims 5-11.

With claim 12, the storage container has an opening to receive the chair and vacuum chamber when the chair is selectively compressed.

With claims 13 and 41, the chair and vacuum chamber are disposed within the storage container with the partial opening of the vacuum chamber is opened to allow air inside the vacuum chamber, so that the chair is partially refilled with air (see col. 2, lines 29-32).

With claim 15, a minimal amount of air is allowed inside the vacuum chamber.

With claim 16, the bladder comprises a flaccid material.

Claims 14,35-40, and 51 are rejected under 35 U.S.C. 103(a) as being unpatentable over Keltner (#3,968,620) in view of Hill (#5,476,184).

Keltner discloses the claimed invention except for the storage container to comprise a fabric material. Hill teaches an air permeable container that comprises an outer duffle bag shell (10) and inserts (12,14,16) to keep the duffle bag in a box-shaped form. It would have obvious to one of ordinary skill in the art at the time the invention was made to provide the duffel bag of Hill's invention in Keltner's invention, since the duffle bag is equivalent to a container that is not airtight. The duffle bag is known to be fabricated from air permeable and pliable cotton.

Claims 42-50 are rejected under 35 U.S.C. 103(a) as being unpatentable over Keltner (#3,968,620) in view of Hill (#5,476,184).

Keltner discloses a packaged furniture assembly comprising a chair (1) (see col. 2, lines 64-68) comprising an air permeable bladder (cloth fabric cover) and a filler (light density flexible polyurethane foam) disposed within the air permeable bladder. The chair is selectively compressed when air is removed from within the air permeable bladder (see col. 2, lines 7-17). A vacuum chamber (plastic bag 3) is configured to house the chair, wherein the vacuum chamber has a partial opening (see col. 2, lines 29-32) to allow air inside the vacuum chamber while the chair is within the vacuum chamber, and a storage container (2) is configured to house the chair and vacuum chamber when the chair is selectively compressed (see col. 2, lines 17-20).

Keltner discloses the claimed invention except for the storage container to comprise a duffle bag. Hill teaches an air permeable container that comprises an outer duffle bag shell (10) and inserts (12,14,16) to keep the duffle bag in a box-shaped form. It would have obvious to one of ordinary skill in the art at the time the invention was

made to provide the duffel bag of Hill's invention in Keltner's invention, since the duffle bag is equivalent to a container that is not airtight. The duffle bag is known to be fabricated from air permeable and pliable cotton.

With claims 43-44,46, and 49-50 the chair and vacuum chamber are disposed within the storage container with the partial opening of the vacuum chamber is opened to allow air inside the vacuum chamber, so that the chair is partially refilled with air (see col. 2, lines 29-32).

***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Stephen A Vu whose telephone number is 703-308-1378. The examiner can normally be reached on M-F from 8:30 am to 5:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Peter M Cuomo can be reached on 703-308-0827. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Stephen Vu  
December 22, 2004